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MAE News: Newsletter from the Office of Monitoring, Audit and Enforcement, Spring 2007

Maine Workers' Compensation Board

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Recommended Citation

Maine Workers' Compensation Board, "MAE News: Newsletter from the Office of Monitoring, Audit and Enforcement, Spring 2007" (2007). *Workers' Compensation Board Documents*. Paper 27.
http://digitalmaine.com/wcb_docs/27

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MAE News

Newsletter from the Office of Monitoring, Audit and Enforcement Maine Workers' Compensation Board

Spring 2007

Volume 3, Number 1



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May Training Session –There's Still Room!

There is still room left for the May 10 Open “Introductory Forms Compliance” Training Session on to be held in our Portland office. The second day of training for “Advanced Wage Calculations” is full. If you wish to attend or want more information, please contact Anne Poulin at (207) 287-7067 or send her an e-mail at Anne.Poulin@Maine.Gov.

As always, we can custom tailor our training to suit your needs.

Claims at “Max”

While there is no Cost of Living Adjustment for dates of injury post **1-1-1993**, claims being paid at the maximum weekly benefit level (maximum rate) are subject to an inflation adjustment or escalation on or about **7-1** of each year.

The Board is tracking claims subject to the maximum rate to ensure that injured employees are being paid adjustments that are due and also to ensure that the proper forms are being filed to document changes in rates.

Information regarding annual Cost of Living Adjustments (pre 1-1-1993 dates of injury) and Inflation Adjustments (post 1-1-1993 dates of injury) can be found on the Board's website at:

<http://www.maine.gov/wcb/departments/payments/sawwmax.htm>

Failure to pay accrued weekly benefits within 30 days after becoming due and payable is subject to penalty under Section 205(3).

Auditor's Corner

When Must Interest Be Paid? How Should It Be Reported?

Interest *must* be paid when weekly compensation is paid pursuant to a decree, consent decree or mediation agreement (see *Jasch v. The Anchorage Inn*).

Rule 8.7 states: “Interest on awards of compensation must be calculated by the employer and paid to the employee pursuant to 39-A M.R.S.A. §205(6). Interest must be paid to the employee even if there is no express language in the decision of the mediator or hearing officer ordering such payment. Interest must be calculated using the formulae and Table contained in Appendix I.”

Failure to pay interest within 10 days after the receipt of notice of an approved agreement for payment of compensation or within 10 days after any order or decision of the board awarding compensation may result in penalties pursuant to §324(2).

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Auditor's Corner (con't)

Interest paid should be reported on the Statement of Compensation (WCB-11) under the category "Other". Please *do not* report interest paid on any discontinuance form (WCB-4, WCB-4A or WCB-8).

Auditor's Corner

When a Petition for Award Serves as Notice of a Claim for Compensation...

Be sure to file either a MOP (and pay) or a NOC within 14 days when it is required by Rule 1.1(1) (see *Bridgeman v. S.D. Warren Company* and *Pearson v. Freeport School Department, et al.*).

Failure to do so is subject to Rule 1.1(2), which states in part: "...the employee must be paid total benefits, with credit for earnings and other statutory offsets, from the date of incapacity in accordance with 39-A M.R.S.A. §205(2) and in compliance with 39-A M.R.S.A. §204. The requirement for payment of benefits under this subsection automatically ceases upon the filing of a Notice of Controversy and the payment of any accrued benefits."

The controverted date of incapacity must be reported on a "lost-time" NOC, but the Petition for Award form does not provide the claimed date(s) of incapacity. So, what if you don't know what dates of incapacity are being claimed?

For purposes of Audit/Monitoring you can use the date of injury as the date of incapacity.

Revocation of Dustin Black's Adjuster's License – link update

In the last issue of MAE news we pointed you to a link at the Maine Bureau of Insurance's website that had been disconnected. The Revocation order can now be found at the following link: <http://www.maine.gov/pfr/insurance/orders/index.htm> .

We apologize for any inconvenience this may have caused.

File a "Full Denial" NOC on a Medical Only Claim? Be Careful If It Turns Into a Lost Time Claim.

There is some confusion in the insurance community regarding a "Full Denial" under IAIABC Release 3 EDI. Some carriers are under the impression that a Full Denial on a Medical Only Claim serves to cover all other issues that may develop later in the case. Claims Administrators should file another NOC listing the incapacity date if the Claim turns into a Lost Time Claim and they are disputing indemnity benefits.

Rule 1.1 states:

- § 1. Claims for Incapacity and Death Benefits
 1. Within 14 days of notice or knowledge of a claim for incapacity or death benefits for a work-related injury, the employer or insurer will:
 - A. Accept the claim and file a Memorandum of Payment checking "Accepted" in Box 18; or
 - B. Pay without prejudice and file a Memorandum of Payment checking "Voluntary Payment Pending Investigation" in Box 18; or
 - C. Deny the claim and file a Notice of Controversy.